

DIVISION OF MINED LAND RECLAMATION		PROCEDURE NO.	2.2.02
PROCEDURES MANUAL		ISSUE DATE	April 17, 2006
SUBJECT	Confidentiality of Permit Application Information	Section	Technical/Permitting
		Last Revised	3-12-97

OBJECTIVE AND INTENT:

To protect confidential information submitted by the permit applicant.

PROCEDURES:

The Act and regulations require that the Division hold certain types of information as confidential.

Information submitted in a coal exploration application that concerns trade secrets or privileged commercial or financial information, which relates to the competitive rights of the applicant. (45.1-233B of the Act) shall be held confidential when requested by the applicant.

The following information shall be held confidential when requested by the applicant **and** the Division Director determines that the information meets the applicable criteria:

- analyses of the chemical and physical properties of the coal to be mined, except information on the components of such coal which are potentially toxic in the environment (45.1-235F of the Act).
- information required by 45.1-236 of the Act or 4 VAC 25-130-778.13(h) of the regulations that is not on public file which the applicant has requested in writing to be held confidential.
- information on the nature and location of archeological resources on public land and Indian land per the Archeological Resources Protection Act of 1979.

Submission of Application - The applicant must clearly identify confidential information as “**CONFIDENTIAL**”. The material should be submitted in a bound volume, completely separate from the remainder of the application. The application should include a written statement requesting confidentiality and citing the statutory basis for the request.

Determination of Confidentiality - Before the application is routed for technical review, the Reclamation Program Manager shall determine whether the information is in fact confidential under 4 VAC 25-130-772.15 and 4 VAC 25-130-773.13(d)(3) of the regulations. The Reclamation Program Manager may request assistance from technical or management personnel in rendering the determination.

If the information does not meet the confidentiality criteria, the Review Inspector shall notify the applicant in writing of the determination. The applicant shall be informed of the right to appeal the Division’s determination or to incorporate the portions of the application deemed non-confidential into the general application package.

Information labeled confidential will be withheld from public inspection while the Division’s determination is under appeal (4 VAC 25-130-773.13(d)(3)).

Public Notice - When the applicant requests that certain information be kept confidential, the Field Inspector shall instruct the applicant to include a concise statement in the public notice describing, in general terms, the nature of the “confidential” information.

Any public comments received shall be handled by DMLR in accordance with 4 VAC 25-130-773.13 (b)(3) of the regulations.

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Confidential Files - These files shall be maintained and secured in the Central File Room, separate from the remainder of the application and permit files. All File Room and Client Assistance personnel will be informed of the location of confidential information and how such shall be maintained.

Access to Confidential Files - A confidential file shall be made available to Division personnel only as it pertains to their respective reviews of the permit application.